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COMMISSION ON HUMAN RIGHTS

Fiftieth session

SUMMARY RECORD OF THE 53rd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 3 March 1994, at 3 p.m.

Chairman: Mr. Minoru ENDO

CONTENTS

RIGHTS OF THE CHILD, INCLUDING:

(a) STATUS OF THE CONVENTION ON THE RIGHTS OF THE CHILD

(b) REPORT OF THE SPECIAL RAPPORTEUR ON THE SALE OF CHILDREN

(c) PROGRAMME OF ACTION FOR THE ELIMINATION OF THE EXPLOITATION OF CHILD LABOUR

(d) PROGRAMME OF ACTION FOR THE PREVENTION OF THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

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CONTENTS (continued)

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(b) STUDY OF SITUATIONS WHICH APPEAR TO REVEAL A CONSISTENT PATTERN OF GROSS VIOLATIONS OF HUMAN RIGHTS AS PROVIDED FOR IN COMMISSION RESOLUTION 8 (XXIII) AND ECONOMIC AND SOCIAL COUNCIL RESOLUTIONS 1235 (XLII) AND 1503 (XLVIII): REPORT OF THE WORKING GROUP ON SITUATIONS ESTABLISHED BY ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1990/41 OF 25 MAY 1990 (continued)

The meeting was called to order at 3.20 p.m.

RIGHTS OF THE CHILD, INCLUDING:

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(agenda item 22) (E/CN.4/1994/84)

1. Mr. MUNTARBHORN (Special Rapporteur on the sale of children), presenting his fourth report on the sale of children, child prostitution and child pornography (E/CN.4/1994/84), said that in the course of 1993 he had established direct contacts with Governments, the private sector and various international organizations, including UNICEF, WHO, ILO and the International Criminal Police Organization (INTERPOL). At the World Conference on Human Rights he had called for greater commitment to counter the sale of children and had also briefed the Committee on the Rights of the Child on issues of concern to it, such as the economic exploitation of children. The increasing internationalization of the sale of children, child prostitution and child pornography during the past year had been disconcerting. Children were not only sold for those purposes at the national level but also formed the subject of extensive cross-border traffic. In his report, he first of all gave an account of the problem of the sale of children, which was subdivided into four main categories: the sale of children for purposes of adoption, exploitation of child labour, the sale of organs and child soldiers.

2. With regard to adoption for commercial purposes, a number of welcome initiatives had been taken in 1993 to counter that practice, particularly the finalization of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. That Convention strengthened the protection accorded by the Convention on the Rights of the Child and the Commission's Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography. It emphasized the need to help children to remain with their biological parents. When that was not possible, the basic criterion for adoption should be the child's best interests. At the country level, however, the situation was less reassuring. In 1993, a number of cases in Eastern Europe had highlighted the existence of a clandestine market in several countries of the region, which constituted a source of supply to meet the demand from various Western countries. The conflict in the former Yugoslavia had merely aggravated the situation regarding the potential sale of children for purposes of adoption. Central and South America remained a key area in regard to abuses in intercountry adoptions in spite of new legislation to prevent such abuses. North America remained a key country of destination which sometimes lacked effective legislation and, at all events, a national focal point to monitor abuses in that field. In a related context, the freedom with which women in the United States could sell their bodies for

surrogacy purposes, a practice directly linked to the sale of children, was disturbing. In Asia, in spite of new legislation to protect children, reports of trafficking were still being received and there seemed to be serious loopholes in the monitoring and implementation of the legislation.

3. His approach was to regard the exploitation of child labour as a form of sale of children. On that basis, his mandate highlighted the new aspects which that practice had assumed in 1993 and complemented other related mandates, such as that of the ILO. It was noteworthy that, in 1993, the Commission had adopted the Programme of Action for the Elimination of the Exploitation of Child Labour and the ILO had also adopted a programme of action against child bondage. At the national level, laws regulating or prohibiting child labour, with variations in the permitted age of employment and the types of work allowed, could be found in all regions of the world. However, their enforcement often left much to be desired and tended to be confined to the formal sector. The exploitation of child labour was rampant in both developing and developed countries, although the figures were higher in the former. In 1993, the question of the exploitation of child labour once again arose in all regions of the world. South-East Asia was a particular case in point, with the non-governmental sector spearheading a campaign against bonded labour and the presence of children in hazardous industries. The plight of child domestic workers and cross-border traffic in children had also been referred to several times in that year. The demand for children from South-East Asia was both local and transnational, with customers in the Gulf countries. In 1993, the situation of children sold to serve as jockeys in camel races in those countries remained disturbing; however, the fact that the United Arab Emirates had promulgated a law prohibiting the use of children for such purposes was a welcome development. In East Asia, there were continuing reports of the sale of and traffic in children at the local and transnational levels. That was closely linked with the sex market, to which reference would be made later. The question of the traffic in children for purposes of marriage, and particularly the purchase of young brides in South-East Asia, had also been raised on several occasions. In Central and South America, there were vast numbers of working children and the problem was further complicated by the large populations of street children. In that regard, the number of street children who had been killed during the year in question was particularly disturbing. The problem of child domestic workers and the exploitation of children in the private sector by traffickers who used them to sell drugs was still a matter of extreme concern. Reports concerning the exploitation of child labour in the informal sector in many African countries had also been received throughout the year. Young girls were the prime victims. Reference had also sometimes been made to cases of children, particularly from some ethnic groups, who were subjected to forced labour and slavery. In 1993, the European countries had also been faced with the problem of the exploitation of child labour in some fields; cases had been reported of children being used for criminal purposes or as domestic workers. All those facts bore witness to the universal nature of the problem.

4. The question of the sale of organs remained the most sensitive aspect of his mandate. While there was abundant evidence of trade in adult organs, it was more difficult to find proof of a trade in children's organs. Although there was no international instrument as yet dealing with the question of the transplantation of human organs, the Convention on the Rights of the Child,

which guaranteed the child's inherent right to life and to protection from any abuse or exploitation, implied that the sale of children for purposes of organ transplantation was totally illegal. WHO had also issued a set of guiding principles on human organ transplantation, which prohibited any removal of organs from a minor for that purpose, with the exception of regenerative tissues. In recent years, many countries had taken measures to regulate organ transplantation and prohibit the use of children's organs. However, the situation at the national level was often nebulous. In 1993, he had contacted the Governments concerned to request additional information and clarifications. Some Governments had not replied, while others had provided limited explanations or denied allegations concerning the sale of children's organs. In that field, there was a need for better monitoring of supply and demand and for closer collaboration with INTERPOL and other organizations combating crime in Central and South America, Asia, the Middle East, Europe and North America. In 1993, there had also been reports of kidnappings, abductions and disappearances, which were sometimes linked with illegal adoptions, the exploitation of child labour and organ transplantation.

5. The problem of child soldiers was widespread and could be found in many areas of the globe where there were armed conflicts. Part of the problem arose from the varying criteria concerning the age of recruitment or conscription of children. The official age in many countries was between 15 and 18, but in practice much younger children were used as child soldiers. At the international level, a number of humanitarian law and human rights instruments touched on the issue, but the protection accorded was still weak due to the fact that, at 15, the age threshold was too low; it should be raised to 18, in accordance with the definition of the child in the Convention on the Rights of the Child. On the ground, the situation remained disconcerting. The activities of child soldiers ranged from fighting to spying, and they were being used in at least 20 armed conflicts across the globe. Many were injured or even killed. Demobilization and family or community-based rehabilitation were urgent necessities for children in all armed conflict situations. In the case of children fleeing from recruitment, it was also imperative to grant them refugee status and offer them international protection.

6. The second substantive area of his mandate, child prostitution, was recognized as a problem of broad national and transnational scope. At the international level, there were various instruments calling for measures against sexual exploitation of children, in particular the Convention on the Rights of the Child, which was reinforced by the Commission's Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography. He also welcomed the fact that INTERPOL had established a Standing Working Party on Offences Against Minors, which had identified areas of cooperation to counter child exploitation. However, the situation at the national level remained highly disturbing. Eastern Europe had emerged as a new market for the sexual exploitation of children. Paedophiles from Western Europe were also known to be operating in several developing countries. Interestingly, Germany had amended its Penal Code so that it applied to illegal acts of Germans abroad even when perpetrated against non German children. The situation in Asia remained serious in regard both to the local market and transnational trafficking of children for sexual purposes, and to visits by paedophiles from developed countries.

South-East Asia was still a key area of concern, and in East Asia, there was at times a linkage with organized crime, such as the Yakuza network. The situation remained equally alarming in the Americas with regard to child prostitution, which was sometimes interwoven with the issue of street children. In Africa, sexual exploitation was usually associated with the informal sector, street life and domestic service. Australia had become increasingly conscious of the misdeeds of Australian paedophiles exploiting children in other countries, and had moved to extend its criminal jurisdiction to cover those misdeeds when perpetrated abroad.

7. Child pornography was often interrelated with child prostitution and was evidently transnational in scope. The advent of new technology, such as computers, which enabled people to send pornographic material very quickly, raised many questions about the efficacy of existing laws on the subject. Equally important was the issue of consumer liability; some jurisdictions did not criminalize the possession of child pornography, while others did. At the international level, the Convention on the Rights of the Child, supported by the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography, called for measures to prevent the exploitation of children for pornographic purposes. At the national level, however, the problems remained intractable. There were major child pornography markets in North America and Europe. Paedophiles from countries of those regions frequently visited developing countries and victimized children for the purpose of child pornography. Interestingly, some European countries were currently moving to criminalize possession of child pornography. It had long been recognized that Asia was a major market of supply and demand.

8. He drew the Commission's attention to the various communications he had sent to Governments during 1993 on matters covered by his mandate. Replies had been received from Brazil, Germany, Honduras and Thailand, while practically no replies had come from India, Peru, Saudi Arabia, Sudan or Uganda. Part V of his report, containing his recommendations, outlined in detail the short-, medium- and long-term measures for the future which he advocated to remedy and prevent the situations described in the document.

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(agenda item 12) (continued)

9. Mrs. GONZALEZ (International Association of Educators for World Peace) drew the Commission's attention to the human rights violations of which the

mental patients confined in psychiatric hospitals in Mexico were the victims. Those patients were not treated like human beings and led degrading lives, never having any opportunity for rehabilitation. They suffered from cold, hunger, pain and neglect. The Government considered them to be lost causes, and administrative corruption, which was characteristic of the country in general, was all too apparent in those establishments. By reason of its attitude towards the mentally ill, the Mexican Government was violating numerous articles of the Universal Declaration of Human Rights. The fact that the mentally ill were forced to cohabit with drug addicts and criminals, exposing them to a whole range of dangers and physical and sexual abuse, was in defiance of article 3 of that Declaration, according to which "everyone has the right to life, liberty and security of person". Article 5, according to which "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment", was being violated as well, because the patients were cold and hungry and were refused all medical care and opportunities for reintegration. Articles 6, 7, 8 and 10, which proclaimed, respectively, everyone's right to recognition as a person before the law, equality before the law, equal protection of the law, as well as an effective, equitable and public remedy before the courts, were clearly being flouted. The privacy, honour and reputation of the mentally ill were completely disregarded by the staff of psychiatric hospitals, in violation of article 12. Article 25, which enshrined the right to an adequate standard of living, and article 26, on the right to education, were being transgressed. Thus, because of the way the Mexican Government organized the national mental health system, every day in the psychiatric hospitals it was violating 10 articles of the Declaration.

10. The National Human Rights Commission of Mexico in September 1993 had published recommendation 187/93, on human rights violations committed in the Dr. Samuel Ramirez Moreno psychiatric hospital, a recommendation which was being completely ignored by the health-care authorities. Her organization called for the creation of an international commission for the defence of the fundamental rights of the mentally ill who were hospitalized in Mexico and the review by such a commission of the Universal Declaration of Human Rights, taking account of the particular situation of the mentally ill in hospitals. She also wished to see committees formed for the protection of the rights of the mentally ill. She asked the United States to reflect on the possible repercussions of awarding the Simon Bolívar Prize to Dr. Ramón de la Fuente, who had opposed the humanization of psychiatric conditions in Mexico. Her organization was in favour of awarding the Nobel Peace Prize to Bishop Samuel Ruiz García, who had spent years defending the rights of the ill, the indigenous and the marginalized. Above all, she feared the indifference of the international community, which was closing its eyes to the condition of the mentally ill in a number of countries, and in Mexico in particular.

11. Mrs. CASTRO (Indian Council of South America) said that her organization wished to speak out, on behalf of indigenous peoples, against the impunity reigning in Peru, Bolivia and Colombia, which contributed to the persistence of grave violations of human rights. In Peru, impunity was an integral part of government policy. Enforcement of military penal law had stood in the way of an impartial inquiry into the disappearance of 10 people in the La Cantuta case. Two of the soldiers implicated had been decorated shortly beforehand by

President Fujimori for their efforts in combating subversion. According to official statistics, between 1980 and 1992, 84 judicial proceedings for human rights violations had been initiated, only 5 of which had been completed.

12. The situation in Bolivia with regard to impunity was linked to the Government's anti-drug strategy. The forces of the mobile rural patrol units (UMOPAR), which were in the forefront of that struggle, had no compunction about conducting searches without a warrant, torturing detainees and carrying out summary executions of those who opposed them. In June 1988, UMOPAR troops had opened fire on demonstrators, killing 12. None of those acts had been punished.

13. In Colombia the situation was equally alarming. The 1991 Constitution, recognized as one of the most comprehensive in the field of human rights, encouraged impunity, as it enshrined military law and the principle of compulsory obedience of the command structure. Despite all the evidence of the role of State agents in human rights violations, none of them had been punished. The persistent impunity reflected a political will of the Colombian Government, particularly the President of the Republic, on whom the immediate dismissal of the law enforcement officers involved in the human rights violations depended. She wished to refer to two cases of mass extrajudicial executions of indigenous persons. The first concerned three Arhuaca community leaders, who had disappeared, been tortured and then executed in November 1990. Military criminal justice had acquitted those guilty and the civil courts, on the basis of that improper decision, had deemed that the State's responsibility was not at issue and refused to compensate the families. The second case concerned the mass execution in December 1991 of 16 indigenous persons from the Paez community, by a group associated with the police and the anti-drug brigades. In that instance as well, the guilty parties had been acquitted. The People's Advocate had then asked the Government Procurator to review the trial, but three of the lawyers representing the indigenous persons had been murdered and the fourth had been forced to flee the country under threats. Colombia had received UNDP advisory services and was the subject of numerous recommendations by the thematic rapporteurs who had visited the country, as well as by a number of intergovernmental organizations. The situation had unfortunately not changed, which was why she now called for the appointment of a special rapporteur for Colombia. Impunity in Peru, Bolivia and Colombia was not only an act of aggression against its victims but also an insult to the principles being defended by the international community.

14. Mrs. BAUER (Article 19, International Centre against Censorship) said that her organization had sent a fact-finding mission to Sri Lanka in July 1993 to investigate the issue of freedom of opinion and expression. While welcoming the reduced number of incidents and the general decline in violence over the past two years, she noted that there were still constitutional provisions, laws and practices that infringed severely the fundamental right to freedom of expression. Developments in the seven months since the mission were disquieting. The Sri Lankan Government continued to refuse to investigate the massive violations of human rights of the recent past, thereby denying the Sri Lankan people their right to the truth - a fundamental aspect of the right to freedom of expression and information.

15. She deplored the fact that emergency regulations on sedition, withdrawn in June 1993, had been reintroduced in December of the same year. The promulgation of those laws as emergency regulations meant that they had not been subject to parliamentary debate before coming into force. That was a clear side-stepping of the democratic process. The regulations were also in violation of international standards, not least because their wording was very vague. Furthermore, they made civil disobedience a crime punishable by up to 20 years' imprisonment. She acknowledged that amendments to the regulations on 5 January 1994 had removed an earlier provision which made it an offence to "bring or attempt to bring the President or the Government into hatred or contempt". Those amendments would have little impact, however, on the manner in which the law was interpreted. At the forty-ninth session of the Commission on Human Rights, the representative of Sri Lanka had outlined his Government's plan for improving the human rights situation in his country. She had two observations to make on that point. First, although the Government had honoured its commitment to consider favourably accession to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, certain laws and practices relating to the treatment of detainees remained at variance with the obligations of all States parties as defined in that instrument. While commending the Government for its intention to conduct a comprehensive review of emergency legislation, she noted that such a review appeared to have been restricted to measures relating to arrest and detention. A continuing review and revision of the legislation was therefore required.

16. Based on its mission to Sri Lanka, Article 19 was not confident that the human rights situation there would substantially improve without greater involvement by the Commission. She therefore called on it to appoint a special rapporteur for a term of one year to investigate and report to it on the human rights situation in Sri Lanka. Her organization also urged the Government to cooperate with such a rapporteur to ensure that there was full and impartial disclosure to the people of Sri Lanka of the discovery of mass graves at Suriyakanda and that an inquiry was carried out, as well as to secure access for all political parties to the media and full cooperation by the Government with Mr. Abid Hussain, the Special Rapporteur on freedom of opinion and expression. At the forty-ninth session of the Commission, the Government had committed itself to continue to pursue its policy of openness and cooperation with the United Nations, national institutions and interested Governments, both domestically and abroad. She invited the Government to pursue the same policy with the Sri Lankan people and ensure them the full enjoyment of their right to freedom of opinion and expression.

17. Mrs. QUIROGA (World Christian Life Community) said that only the observance and full enjoyment of human rights could guarantee peace, as well as the legitimacy of Government. Social and political democracy must be the foundation of social life in all its forms. Her organization called once again on the Commission to ensure that its decisions respected the spirit of the international declarations and instruments for the protection of human rights. She was particularly concerned by the situation in States where human rights violations were carried out massively and systematically but on which neither the Sub-Commission nor the Commission made any statement, a silence that reinforced those situations and encouraged the impunity enjoyed by the perpetrators. Also particularly shocking was the fact that those States had a veneer of democracy and officially recognized human rights yet violated them

on a daily basis. That denial of human rights was also the direct result of the influence of market forces. Violations of social, economic and cultural rights were simply a manifestation of the unequal distribution of wealth and a sign of the victory of luxury and superficiality over human solidarity. Human rights violations were also the expression of the affirmation of the power of the multinationals, which set South against North. Those practices should cease and the Commission should come out in favour of the interests of suffering peoples.

18. She denounced the so-called democratic regimes that tortured, caused people to disappear, carried out extrajudicial executions and, in the name of the stability of institutions and neoliberalism, crushed all forms of opposition, going so far as to exterminate those who still dared to protest. Such States, democracies in name only, were an affront to humanity and used all forms of repression: states of emergency transformed the abnormal into the normal and allowed terror to reign in daily life. She was particularly concerned about the sufferings inflicted on the Guatemalan people and saw nothing but shattered hopes in the Government of Ramiro de León Carpio. The armed forces had continued its abuses, murdering four persons on 3 July 1993, including a journalist and political leader, Jorge Carpio Nicolle. Thomas Pérez, a member of the Peasant Unity Committee (CUC), had been accused of the murder, even though, according to the Archdiocesan Human Rights Office, there was ample evidence of the guilt of the civilian self-defence patrols (PACs) and army intelligence services. It was a classic tactic of repression to commit crimes and then blame them on opponents of the regime. Attention should also be drawn to the illegal detention and torture of human rights defender Mario Palanco and to the application filed by Jennifer Harbury, whose husband, a Mayan commander in the Unidad Revolucionaria Nacional Guatemalteca (URNG), had been captured by the army on 12 March 1992, along with 35 other individuals.

19. She also deplored the situation in Colombia where, despite the adoption of a new Constitution and the creation of a number of institutions for the protection of human rights, violations continued on an alarming scale. Paradoxically, despite the so-called long democratic tradition in Colombia, the political will to end violations was totally lacking. Several supposedly provisional measures were seriously affecting fundamental guarantees, limiting the right to habeas corpus, allowing the press to be censored, authorizing military courts to try civilians and permitting soldiers to be appointed as mayors. Those measures had been confirmed by law No. 104 of 30 December 1993. Protests and legitimate political opposition had become offences. Strikes, demonstrations and the actions of trade unions, peasants and students were vigorously repressed, and the laws adopted to combat drug trafficking were enforced by hooded judges. Particularly noteworthy was the detention of four activists from the Patriotic Union, a leftist party created in 1985, of which more than 2,000 members had already been murdered. She deplored impunity, which had become a systematic policy of the State. On 22 September 1993, Enrique Buendía and Ricardo Gonzales, two commanders and spokesmen for the Socialist Renovation Movement, had been the victims of extrajudicial executions attributed to an anti-terrorist patrol. Despite the abundant evidence, the trial - in a military court - had not led to the perpetrators being imprisoned. On 5 October 1993, 13 peasants from the Riofrío zone had been executed en masse by the army. The army insisted that

they were guerrillas who had been killed in combat, but that version of the incident was denied by the victims' families and witnesses. Although the perpetrators had been identified, the inquiry, which was still in the hands of military penal justice, had not led to any arrests. In March 1993, the Ministry of Defence had stated that the guerrillas would be defeated within 18 months. That strategy, baptized "security for individuals", had huge financial backing. As a result 600,000 people had been forced into internal exile and 6,000 had been arbitrarily detained, accused of plotting against the State. Lastly, the Commission's attention should be drawn to the situation of human rights activists in Colombia, many of whom had been detained or had "disappeared", while others had been murdered and still others forced into exile. She referred in particular to the temporary exile of Rafael Barrios Mendivil, President of the José Alvear Restrepo Lawyers' Collective, who had been persecuted for combating impunity in Colombia.

20. Mrs. CASTRO (Minga) said that, as a lawyer, she denounced the systematic violation of the right to defence in Colombia and attacks on the free exercise of the profession. Defence lawyers were targeted by the military intelligence services, which harassed them, intercepted their mail and threatened them. She had been forced to flee the country because of her activities in the field of human rights.

21. Mrs. QUIROGA (World Christian Life Community) read out the testimony of Mrs. Carrillo, a member of the Human Rights Committee of Barrancabermeja. According to that testimony, Mrs. Carrillo had been forced to leave the country in January 1992 after an attack which had cost the life of her secretary, Blanca Valero de Durán. Five other colleagues had been murdered (Alvaro Bustos, on 28 February 1991; Humberto Hernandez, 19 March 1991; Julio Cesar Berrio, 28 June 1992; Ligia Patricia Cortez, 30 July 1992; and Ismaël Jaimes, 6 May 1992). Others, like herself, had been forced into exile. In January 1994, two officers of the National Army had accused the Chief of the Intelligence Service, Colonel Rodrigo Quiñonez Cárdenas, of having organized a paramilitary unit to eliminate the opposition and destabilize the region of Magdalena Medio. That group was reported to have killed more than 100 people in Barrancabermeja, including Mrs. Quiroza's four colleagues, all human rights lawyers. In accordance with common practice, despite all the evidence, the principal perpetrator remained at large. In Colombia, the simple fact of loving life and fighting to defend it was a heroic act which many paid for with their blood.

22. Mr. CHANGALA (Service, Peace and Justice in Latin America) denounced the grave violations of human rights carried out in a number of countries, essentially in Latin America. In Guatemala, year after year various non-governmental organizations denounced the gravity of the situation and the systematic violations of civil, political, economic and cultural rights. The figures given by the new Human Rights Procurator showed that the number of complaints were continuing to grow. In his report to Congress on 25 January 1994, he had cited 13,339 complaints. Similarly, the Special Rapporteur on extrajudicial executions noted in his report that for the first six months of 1993, 63 bombs had been placed in residential areas and 18 military operations had been carried out against the civilian population. According to figures provided by the Human Rights Coordinating Office of Guatemala (CONADEHGUA) between January 1993 and February 1994, there

had been 132 individual extrajudicial executions and 43 mass extrajudicial executions, of which the victims were human rights activists, trade unionists, representatives of Mayan organizations, students and clergymen. According to the Special Rapporteur, before being executed, a number of the victims had been tortured. Both the Independent Expert for Guatemala and the Special Rapporteur confirmed that those crimes should be attributed to members of the armed forces, the civilian self-defence patrols, the police and the death squads. He therefore asked the Commission to be particularly attentive to the question of the rights of Guatemalans.

23. Another country where the situation was a matter of extreme concern was El Salvador. In particular, the right to life was endangered, and those who violated it continued to enjoy total impunity. In the light of the increase in extrajudicial executions, the absence of political will to combat the phenomenon, the tenuous nature of everything that had been done to reinforce the peace process and the steps taken to provide political protection had to be noted. Considering the rise in violence and the inefficacy of the action taken, the Commission should extend the mandate of the Independent Expert.

24. Of equal concern was the situation in Peru, whose regime was characterized by the fact that there was no separation of powers or independent judiciary and the armed forces enjoyed impunity. Although the number of enforced disappearances and extrajudicial executions had declined relative to previous years, the right to life was still constantly being violated. In 1993, there had been 1,692 deaths due to political violence and 34 extrajudicial executions. Furthermore, the fact that the emergency legislation adopted as part of the anti-terrorist struggle was still in force meant that civilians continued to be tried by military courts and that the number of arbitrary detentions by law enforcement services was growing alarmingly. It was also to be noted that the death penalty could still be pronounced in cases of terrorism or treason, in flagrant violation of the American Convention on Human Rights, which had none the less been ratified by Peru. Given that consistent pattern of violations of rights and abuses, the Commission should appoint an independent expert in order to inform it about what was happening in that country.

25. Colombia was another Latin American country where the human rights situation was grave. That was reflected in the reports of the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/1994/7), the Working Group on Enforced or Involuntary Disappearances(E/CN.4/1994/26) and the Special Rapporteur on torture (E/CN.4/1994/31), all of which denounced human rights violations in Colombia. By way of example, it was sufficient to recall that one person disappeared there every two days for political reasons. The responsibility of the Colombian State had been amply demonstrated and the figures were overwhelming: 75 per cent of the cases were attributed to the armed forces and State security bodies (56.3 per cent) and to paramilitary groups (18.01 per cent). To that must be added the total impunity enjoyed by the perpetrators. The appointment of a special rapporteur on Colombia was therefore essential.

26. The situation in East Timor also called for firm action by the Commission. The situation there had worsened and killings, arbitrary detentions and acts of brutality were commonplace. Morocco was yet another

country where enforced disappearances were a cause for concern. Mention should be made in particular of the fate of the hundreds of Sahaouis missing since 1975. To the repeated requests of the Working Group on Enforced or Involuntary Disappearances, the Moroccan Government always responded evasively or simply denied all responsibility. Attention should be drawn furthermore to the situation in Sri Lanka; in that regard, the Commission should urge the Government to seek a negotiated solution that recognized the right to self-determination of the Tamil people. Almost a sixth of the population of Bhutan was living in refugee camps in neighbouring Nepal. Lastly, the Republic of Korea was still applying national security legislation that was hardly conducive to the observance of human rights and that allowed for a large number of citizens to be kept in detention simply for having demanded their fundamental rights. Forceful intervention by the international community was needed in all those situations.

27. Mr. KHOURI (Union of Arab Jurists) vigorously denounced the embargo that had been in force for three years against Iraq and had given rise to one of the gravest situations the country had ever faced. He called for the lifting of that embargo, which within a year had already begun causing endless suffering, and which did not have the slightest moral or political justification. It was very difficult to give an accurate picture of the ordeal of the Iraqi people, but there were some telling statistics: per kilogram, flour cost 90 dinars, sugar 160 dinars, butter 162 dinars, meat 220 dinars, tea 600 dinars - all on an average monthly salary of 500-600 dinars. But for the ration cards that made survival possible, many Iraqis would have died of hunger.

28. That serious situation, which was producing so many victims, was in flagrant violation of the International Covenant on Economic, Social and Cultural Rights. It also violated article 25 of the Universal Declaration of Human Rights, by which everyone had the right to an adequate standard of living, as well as article 3, which recognized the right to life, and article 22, under which everyone had the right to social security. Article 1 of both International Covenants concerned the right to self-determination. By depriving Iraq of its natural resources the embargo was in flagrant violation of those Covenants. Some countries had a major influence on the Security Council, and anyone who backed the embargo or contributed to it was guilty of genocide, which was outlawed by the International Convention on the Prevention and Punishment of the Crime of Genocide.

29. His organization, which had placed its trust in the United Nations and its Charter, decried the double standard which was being applied. He urged the Commission to assume its responsibilities and unambiguously condemn the crime being perpetrated against the Iraqi people.

30. Mr. LOREDO (International Association for the Defence of Religious Liberty) welcomed the recent establishment by the General Assembly of the office of the High Commissioner for Human Rights, in accordance with the recommendation contained in the Vienna Declaration, and hoped that the decision would benefit all the peoples of the world. His organization was thinking in particular of the Cuban people, which it assured of its full support, and thanked all those, including the members of the Commission, who followed the situation of human rights in that country. That situation had

unfortunately not improved. The Conference of Catholic Bishops of Cuba, which had launched an urgent appeal for reconciliation among all Cubans on 8 September 1993, and the report of the Special Rapporteur on the situation of human rights in Cuba, Mr. Carl-Johan Groth (E/CN.4/1994/51), had referred in particular to the high number of detainees imprisoned for acts which could be depenalized and discrimination based on philosophical ideas, political orientations or religious beliefs. The Special Rapporteur had recommended in particular that the Cuban Government "cease persecuting and punishing citizens for reasons relating to freedom of peaceful expression and association". In September 1993, officials of the Human Rights Centre of Cuba - Miami (CEDEHU) had met with the Special Rapporteur in New York and brought to his attention other information which complemented and updated the information presented by the Conference of Bishops, and by the Rapporteur himself in his report, concerning, among other things, harassment of church-goers during religious ceremonies, ill-treatment of detainees and, particularly, abusive psychiatric treatment in prisons, repression by the rapid intervention brigades and reprisals against lawyers defending opponents of the regime and dissidents.

31. Under the circumstances, it appeared crucial to support the Cubans and give them renewed hope, and his organization appealed to the Commission to pursue its efforts to that end. He deplored the fact that the Government continued to reject the Commission's decision to keep the situation of human rights in Cuba under review and was refusing to cooperate with the Special Rapporteur. Many desperate Cubans had preferred to abandon their country at the risk of their lives. In 1993, 3,656 of them had arrived on the Florida coasts. Everything should be done, as His Holiness Pope John Paul II had said during the audience granted on 15 January 1994 to members of the diplomatic corps accredited to the Holy See, not to abandon the Cubans and to help them recover their self-confidence and together find the way towards a society increasingly characterized by solidarity and respect for the values inherent to the human being.

32. Mr. DIENG (International Commission of Jurists) said that he wished to draw the Commission's attention to the human rights situation in Iraq, Equatorial Guinea, Mexico, the occupied territories, Bangladesh, Bougainville and Haiti. Well before Iraq's invasion of Kuwait, his organization had expressed its concern to the Commission about the human rights violations committed in Iraq because of the superficial separation of powers and major shortcomings in the administration of justice. Executive and legislative powers were exercised arbitrarily by the Revolution Command Council, which had frequently promulgated decrees that ran counter to the Constitution. It had, for example, abrogated the constitutional provisions concerning its own composition. Those decrees, which represented a parallel system of legislation, touched on all aspects of life in Iraq, since it was the Council that had promulgated the Code of Criminal Procedure and various laws in the fields of employment, health, justice and culture. Furthermore, the decisions taken by the President of the Republic and the Revolution Council were not subject to control by the judiciary. His organization's study of the question, and the Iraqi Government's comments thereon were available to the Commission.

33. In Equatorial Guinea, current laws conferred dictatorial and absolute powers on the President of the Republic. In practice, there was no separation of powers and therefore no rule of law. The Special Rapporteur on the human rights situation in that country had noted after his two visits there that a variety of violations of fundamental human rights were taking place, including arbitrary arrests and detentions, torture and other cruel, inhuman or degrading treatment, summary executions, discrimination based on sex or ethnic origin and the repression of political opposition. His organization supported all the recommendations made by the Special Rapporteur in his report (E/CN.4/1994/56) and again urged the Commission to take the necessary steps to improve the situation in Equatorial Guinea.

34. During its mission to Mexico from 1 to 10 February 1994, following the uprising of the Indians in the State of Chiapas, his organization had noted that government troops had been guilty of grave violations of human rights: summary executions of detainees, arbitrary detention of approximately 200 civilians, and torture and disappearance of about 20 persons. It had not received any complaints of violations by members of the Zapatista National Liberation Army. He regretted that the amnesty law adopted by the federal Parliament and state Parliaments on 20 January 1994 had been worded in such general terms as to guarantee impunity to the public officials responsible for those crimes.

35. His organization deeply deplored the recent massacre of Palestinians by an Israeli settler in Hebron, in the occupied territories. The systematic distribution of arms to the Israeli settlers in those territories could only encourage that sort of incident. His organization had also been shocked by the November 1993 incidents in Naniarchar Thama, Bangladesh, where the security forces had fired blindly on a peaceful rally organized by the Chittagong Hills Student's Council; he urged the Bangladeshi Government to allow international observers to follow the work of the Inquiry Commission set up to determine responsibility for that incident. As to the situation in Bougainville, he called on the Commission to invite the Government of Papua New Guinea to comply with the resolution adopted by the Commission at its forty-ninth session, requesting the Government to permit international fact-finding missions to go to Bougainville, and asked it to appoint a special rapporteur to look into the human rights situation on the island. In Haiti, neither the political negotiations nor the International Civilian Mission had been able to restore democracy and ensure the respect of human rights, basically due to the attitude of the soldiers responsible for the coup d'état, to whom grave violations of human rights were attributed. The international community should redouble its efforts to bring an end to those violations, but should none the less reject any agreement calling for a general amnesty that would provide impunity to the guilty parties.

36. His organization thanked the Indian and Pakistani Governments for having permitted its team to visit those countries to examine the human rights situation in Jammu and Kashmir. The report on that mission would be issued in the near future.

37. Mrs. ASSAAD (International PEN) said that her organization, represented in 87 countries, was very concerned by the fact that certain countries were resorting to anti-terrorist legislation in order to restrict freedom of

expression. While recognizing that such laws might be the most effective instrument for combating violence, she regretted that those laws very often contained provisions that could actually lead to violations of the rights of people who did not advocate violence.

38. Her organization had already addressed the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in August 1993, on Turkey, where some writers and journalists were imprisoned for exercising their right to freedom of expression. Most of them had done no more than allude to the situation of the Kurds in their writings and had never condoned violence. Since the violation of the cease-fire, the authorities had heightened acts of repression against writers and journalists, who were particularly threatened by the anti-terrorist law, which contained only a very vague definition of "terrorist". Since 1992, at least 20 writers and journalists had been murdered in Turkey - sometimes, according to some sources, with the complicity of elements within the army.

39. In India the law on the prevention of terrorism contained clauses violating the right to freedom of expression, since they called for prison sentences ranging from five years to life imprisonment for any act considered to be evidence of support for separatist movements, such as the expression of opinions on the matter in the media. Several journalists had been arrested under that law and some of them had allegedly been tortured. Her organization was therefore glad to learn that the Indian Human Rights Commission, established in October 1993, would be responsible for reviewing current laws to ensure that they were not interpreted arbitrarily. Her organization hoped that all those who had been arrested for having exercised their right to freedom of expression and association would be released.

40. It was also frequently because of anti-terrorist decrees that writers and journalists had been imprisoned in Peru. The fact that several of them had since been released and had their cases dismissed showed that the decrees had been enforced arbitrarily. Although all persons imprisoned in that manner had subsequently been allowed recourse to habeas corpus, her organization remained concerned about unfair trials. Moreover, all decisions had to be referred to a higher court, further delaying the release of all those arbitrarily detained under that legislation.

41. Those three examples demonstrated how poorly interpreted and poorly enforced anti-terrorist laws could lead to the arrest of writers and journalists who had done nothing but exercise the rights proclaimed in article 19 of the Universal Declaration of Human Rights. Her organization appealed to the Turkish, Indian and Peruvian Governments to review the cases of all writers and journalists detained under anti-terrorist laws and immediately and unconditionally release all those who were being held in violation of their right to freedom of expression. It also asked them to revise those laws with a view to deleting all clauses that might facilitate such detentions.

42. Mr. GILANI (World Society of Victimology) said that on four occasions the Kashmiris had been chased from their land, driven across the cease-fire line and kept in exile by a country that remain deaf to all appeals from the United Nations to withdraw the majority of its troops from Kashmir and allow

the inhabitants of that State freely to determine their status and exercise without any discrimination their fundamental freedoms: freedom of the press, speech and assembly, freedom of movement within their own country and freedom to leave or return to it. The Indian Government continued with its 500,000 soldiers to isolate Kashmir from the outside world, turning it into a devastated State where murder, rape, involuntary disappearances and arbitrary detentions were commonplace and where respect of the right to life and a fair trial was an illusion. Paragraph 327 of the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Waly Ndiaye (E/CN.4/1994/7) referred to numerous human rights violations in Jammu and Kashmir, including violations of the right to life and the rights of detainees. Unfortunately, the Special Rapporteur had been unable to visit the region to assess the situation first hand because the Indian Government had not allowed him to do so. If the Government did finally agree to his visit it would be useful if he were accompanied by the Special Rapporteur on Torture.

43. The time had come to foster peaceful understanding and coexistence between Muslims, Hindus, Christians, Sikhs, Buddhist and members of all other religious groups in Kashmir. The refugees on both sides of the demarcation line and the population of Kashmir in general should also ask the United Nations to intervene more forcefully and demand that non-governmental and humanitarian organizations be given access to Kashmir. Draft resolution E/CN.4/1994/L.40, which was addressed to all communities, should be supported. Muslims and Hindus should not fail to grasp the opportunity offered by the Special Rapporteur and the draft resolution. The international community still hesitated to intervene in Kashmir, although most of the international human rights instruments were totally ignored there and India continued to obstruct any attempt to investigate the violations. It was true that States might not derive any direct material benefit from such an intervention, but the international community, through the United Nations and particularly the Commission on Human Rights, ought to listen to the appeals of the Kashmiris. If it wished to remain credible, the Commission should face its responsibilities and prevent India from setting the different religious communities against one another, so as to preserve the multicultural and multireligious character of Kashmiri society and allow the Kashmiris freely to exercise their right of choice.

44. Mrs. INAYATULLAH (World Muslim Congress) said that Indian-occupied Kashmir once called the "Switzerland of Asia", had been devastated and its population targeted by unabated State terrorism. In 1993, the Indian security forces deployed in Kashmir to suppress the 4 million inhabitants fighting the occupation had been increased to 600,000. Kashmir was suffering, but no sacrifice was too great and, despite the accusations launched by India against so-called "outside forces", the Kashmiris would continue their struggle for freedom. The gravity of the situation called for economic sanctions and an arms embargo to be imposed on India. Reputed non-governmental organizations had drawn the attention of the international community to the extent of the repression carried out by the Indian army in Kashmir. Despite claiming that the question of Kashmir was simply a territorial conflict and attempting to justify its action on the basis of the terrorism and fundamentalism sweeping the region, India was not able to disguise its responsibility for the genocide of Kashmir, reflected in extrajudicial executions, gang rape, reprisal killings, disappearances, custodial deaths and torture. Kashmir belonged to

the Kashmiris and, while they might have been humiliated, they would not be intimidated. The World Muslim Congress asked the Commission to support the draft resolution on that issue, which called for a fact-finding mission to be sent to Jammu and Kashmir.

45. Mrs. SHERMARKE (International Council of Voluntary Agencies) said that although her organization supported the general measures adopted by the World Conference on Human Rights, it hoped that other recommendations of the Conference would not be overlooked particularly those concerning the promotion of human rights at the local and national levels. The Vienna Conference had dealt not only with collective action that should be taken by the United Nations, but also with what each State should consider doing with its own environment. In that connection, her organization strongly supported the recommendation of the World Conference that each State should consider the desirability of drawing up a national action plan identifying steps whereby it would improve the promotion and protection of human rights. Such a plan could promote dialogue and cooperation in the field of human rights between the governmental and non-governmental sectors and provide the basis for proposals for United Nations technical assistance in that field. The Australian Government had drawn up a plan of action after the World Conference, which could be a useful model for Governments wishing to take similar initiatives.

46. Her organization asked the Commission to press more vigorously for non-violent resolution of the many military conflicts in the Asia-Pacific region, particularly in Sri Lanka, East Timor, Tibet, Bougainville and Myanmar. In all those places, conflicts were associated with serious and repeated human rights violations. The Commission should give priority to achieving a durable political solution in each case. In practice, however, it sometimes appeared to settle for Government replies to its questions on human rights, while Governments continued their military operations. That was especially to be deplored when the fundamental rules of international law were transgressed and when other parties to the conflict had stated their willingness to negotiate, as for example in the case of East Timor, Myanmar and Tibet. To be effective, a long-term human rights strategy must include a strategy for peace.

47. Mr. VITTORI (Pax Christi International) said that when a State refused a special representative of the United Nations access to its territory, as in the case of Iran, it was because that State had something to hide. He could not conceal his surprise that the Government of a great democracy should come to the aid of Iran by putting the two alleged assassins of Kassem Radjavi beyond the reach of justice. Cuba was another country which refused to receive a representative of the United Nations. Pax Christi agreed with the conclusions of the Special Rapporteur on that country and drew the Commission's attention to the pastoral letter from the Cuban bishops, dated September 1993. His organization reiterated that it would like to see the United States lift the economic sanctions, which only increased the suffering of the Cuban people.

48. In view of the hell endured by the former Yugoslavia, as witnessed through the media for the past two years, was there any reason so boast about a precarious calm in Sarajevo? The siege of that martyred city had not been raised and genocide was continuing in Bosnia, though an agreement with Croatia

appeared to hold out some hope. On 28 October 1993, the European Parliament had unanimously adopted a resolution inviting the member States of the European Community to receive and help persons who refused to participate in that fratricidal war. The Commission should heed that example and the public in democratic countries should put pressure on their Governments to refrain from expelling those who refused to obey criminal orders. In that regard, his organization deplored the so-called "re-admission and transit" agreement which the Swiss and Hungarian Governments had just signed, allowing Albanians of Kosovo who did not obtain asylum in Switzerland to be expelled via Budapest for transfer to Belgrade. That agreement inevitably evoked the tragic memory of the Second World War, when Jews had been turned back and delivered into the hands of their persecutors.

49. In Haiti, the agreement of 3 July 1993 had defined the modalities for the restoration of democracy, but the dictatorship had emerged even stronger. It was holding the United Nations and the Organization of American States in check and had even ridiculed the American troops. Pax Christi commended the Special Rapporteur for his report and asked the Commission to extend his mandate. It also urged the major Powers to bring about the return of President Aristide without further equivocation.

50. Iraq was the one country in the world where the Security Council made no concessions in implementing its decisions. That did not seem to endanger the dictatorship, however, or to prevent the repression of the Kurds and the Shiites. The Iraqi people were suffering under a murderous embargo that would be quickly lifted if Western oil supplies were at risk.

51. In Sri Lanka, the Tamil Tigers were responsible for unspeakable human rights violations. None the less, the Sri Lankan army and paramilitary units which had greater resources, committed even more such violations. His organization appealed to all Governments to prohibit arms supplies to all the parties and called for an end to the fighting and the opening of negotiations among all the parties concerned under United Nations auspices.

52. The situation in East Timor was becoming untenable. He recalled the resolutions of the United Nations and the Commission on Human Rights concerning the right of the Timorese people to decide their political status and commended the Secretary-General for his report on the situation in East Timor, as well as his efforts at mediation.

53. In other countries, too, the situation was catastrophic. That was the case in Sudan as well as in India, where religious nationalisms were threatening both the unity of the country and a secular and tolerant democracy; in Afghanistan, where rival religious factions were still at war; in Bhutan, where minorities were suffering from an absolute monarchy; in Burundi, where two ethnic groups were unable to co-exist peacefully; in Ethiopia, where the provisional Government was repressing the rights of the opposition; in Western Sahara, where Morocco continued to sabotage the referendum; in Peru, where the struggle against the Shining Path gave the Government every pretext to press all forms of opposition; and in Turkey, where the right of the Kurds to preserve their own identity and culture was repressed with violence.

54. Mrs. PARKER (International Educational Development) said that violations of human rights were continuing in occupied Western Sahara and the referendum process was in a critical phase. Yet it had been almost 20 years since the International Court of Justice had ruled that the people of Western Sahara had the right to determine their political status. Without effective intervention by the United Nations and the Commission, the situation could easily revert to one of armed conflict.

55. In Sri Lanka, the Government was seeking to impose unacceptable conditions on the Tamil people and continued to answer their aspirations with weapons. The situation in Myanmar was one of the most flagrant violations of the democratic process. In May 1990, the people had voted. However, the losers of the election had stayed in power, unleashing a reign of terror and repression, and were allowed to take places in the Commission, as if they were the legitimate Government.

56. The Kashmiri people had been promised the right to determine their political status by the Security Council over 40 years ago. Those resolutions had yet to be implemented. The resolutions on Kuwait, on the other hand, had been implemented in a matter of weeks. It was true that the Kashmiri people did not have oil.

57. In 1949, the Chinese army had invaded Tibet and, since then, the Tibetan people had been denied their right to democracy and self-determination. The occupying forces were guilty of war crimes under international law, involving torture, rape, summary executions, deportations and massive destruction of cultural property. She gave the floor to Mr. Sachs, also of her organization, who would present direct testimony concerning Japan.

58. Mr. SACHS (International Educational Development) said that he had spent 70 days in detention in Japan, during which he had undergone physical and psychological torture. For many days he had been unable to contact a lawyer, and his parents had found it difficult to get in touch with him. It seemed from what he had seen and heard during his detention that foreigners were especially badly treated during such provisional detention, which was not to say that Japanese prisoners fared any better. Prisoners were tied up for days and forced to eat without the use of their hands. They had to wait a very long time before being able to contact a lawyer. Frequently they were tortured. All were subjected to degrading treatment.

59. Mrs. PARKER (International Educational Development) said that a number of NGOs were concerned about provisional detention in Japan and had concluded that there were grave violations of articles 7, 9 and 14 of the International Covenant on Civil and Political Rights. The Commission should encourage Japan to undertake the badly needed reforms of its criminal justice system.

60. Mr. MOCONG ONGUENE (World Alliance of Reformed Churches) said that following independence in 1968, Equatorial Guinea had had two repressive regimes, which had been guilty of summary executions, torture, arbitrary detention and ill-treatment of detainees. Since coming to power in August 1979, the President of that country had drawn up three repressive instruments that constituted the pillars of his dictatorship: the State security services, the rapid intervention forces and the Democratic Party of

Equatorial Guinea. Their purpose was to impose strict control on the people and keep them under surveillance in order to identify "enemies of the nation" and neutralize them definitively. The grave violations of human rights committed in Equatorial Guinea were possible not only because the Head of State gave his consent but especially because he also gave the orders and instructions. Those violations were not inevitable but were rather a problem of political will. The current regime was very anxious to defend the principle of national sovereignty, which left it free to engage in all sorts of abuses. It was the duty of the United Nations collectively to proclaim, promote and protect human rights.

61. It was clear that the human rights situation had deteriorated considerably in Equatorial Guinea. Intimidation, arbitrary arrests and beatings were increasing; freedom of opinion and of the press were non-existent; religious activity was subject to strict State control; there was no separation of powers; trade union freedom did not exist; the status of women was far from meeting the universal standards observed in all democratic societies; citizens had no recourse to the courts when their rights were violated; and detainees were subjected to ill-treatment.

62. His organization wished to commend the Special Rapporteur on the quality of his report, which would raise international awareness of what was happening in Equatorial Guinea. The report described in detail the violations of human rights and the living conditions being imposed on the people of that country.

The meeting rose at 6 p.m.